

decisions with respect to any claims or issues that are heard separately.

(c) *Separate determinations of liability.* The Board may:

(1) Limit a hearing to those issues of law and fact relating to the right of a party to recover, reserving the determination of the amount of recovery, if any, for other proceedings; and

(2) In its decision of an appeal, irrespective of whether there is evidence in the record concerning the amount of recovery, and whether or not a stipulation or order has been made, reserve determination of the amount of recovery for other proceedings. In any instance in which the Board has reserved its determination of the amount of recovery for other proceedings, its decision on the question of the right to recover shall be final, subject to the provisions of 6101.30 through 6101.33.

6101.27 Stay or suspension of proceedings; dismissals in lieu of stay or suspension [Rule 27].

(a) *Stay of proceedings to obtain contracting officer's decision.* The Board may in its discretion stay proceedings to permit a contracting officer to issue a decision when an appeal has been taken from the contracting officer's alleged failure to render a timely decision.

(b) *Suspension for other cause.* The Board may suspend proceedings in a case for good cause. The order suspending proceedings will prescribe the duration of the suspension or the conditions on which it will expire. The order may also prescribe actions to be taken by the parties during the period of suspension or following its expiration.

(c) *Dismissal in lieu of stay or suspension.* When circumstances beyond the control of the Board prevent the continuation of proceedings in a case, the Board may, in lieu of issuing an order suspending proceedings, dismiss the case without prejudice to reinstatement. Such a dismissal may require reinstatement by a date certain or within a certain period of time after the occurrence of a specified event. If the order of dismissal does not otherwise provide, it will be subject to the provisions of 6101.28(b).

6101.28 Dismissals [Rule 28].

(a) *Generally.* (1) A case may be dismissed by the Board on motion of any party. A case may also be dismissed for reasons cited by the Board in a show cause order to which response has been permitted. Every dismissal shall be with prejudice to reinstatement of the case unless a dismissal without prejudice has been requested by a party or specified in a show cause order.

(2) *Protests.* The Board may also dismiss a protest that the Board determines (i) is frivolous; (ii) has been brought or pursued in bad faith; or (iii) does not state on its face a valid basis for protest.

(b) *Dismissal without prejudice.* When a case has been dismissed without prejudice to its reinstatement and no party has requested, within the period of time specified in this paragraph, that the case be reinstated, the case shall be deemed to have been dismissed with prejudice as of the expiration of 10 working days of the date of dismissal in a protest, 180 calendar days of the date of dismissal in any other kind of case, or such other period as the Board may prescribe.

(c) *Issuance of order.* An order of dismissal shall be issued by the panel of judges to which the case has been assigned if the motion is contested or if the Board is acting consequent to its own show cause order. An order of dismissal may be issued by the panel chairman alone if the motion to dismiss is not contested.

(d) *Settlement agreements.* Any agreement that provides for the dismissal of a protest and involves a direct or indirect expenditure of appropriated funds shall be submitted to the Board and shall be made a part of the public record (subject to any protective order considered appropriate by the Board) before dismissal of the protest. If a Federal agency is a party to a settlement agreement, the submission of the agreement to the Board shall include a memorandum, signed by the contracting officer concerned, that describes in detail the procurement, the grounds for protest, the Federal Government's position regarding the grounds for protest, the terms of the settlement, and the agency's position regarding the propriety of the award or proposed

award of the contract at issue in the protest.

[58 FR 69250, Dec. 30, 1993, as amended at 60 FR 17027, Apr. 4, 1995]

6101.29 Decisions [Rule 29].

(a) *Format; procedure.* Except as provided in 6101.19(d) (protest suspension decision) and 6101.13 (small claims procedure), decisions of the Board will be made in writing upon the record as prescribed in 6101.12. Each of the parties will be furnished a copy of the decision certified by the Office of the Clerk of the Board, and the date of the receipt thereof by each party will be established in the record.

(b) *Timing of protest decisions.* (1) A decision on the merits of a protest will be issued within 65 calendar days after the filing of the protest, unless the chairman of the Board determines that the specific and unique circumstances of the protest require a longer period. In that event, the Board shall issue a decision within the longer period determined by the chairman of the Board.

(2) In a protest, the Board will, to the maximum extent practicable within the 65-calendar-day period applicable to the original protest, decide all issues, including those raised by amendment or intervention, that are necessary to the resolution of the case. The Board will whenever possible notify the parties prior to the originally scheduled hearing date, or date for record submission, if it believes that because of a new ground of protest raised by an amendment or by an intervention, the protest might not be decided within the original 65-calendar-day period.

[58 FR 69250, Dec. 30, 1993, as amended at 60 FR 17027, Apr. 4, 1995]

6101.30 Full Board consideration [Rule 30].

(a) *Requests.* (1) A request for full Board consideration is not favored. Ordinarily, full Board consideration will be ordered only when (i) it is necessary to secure or maintain uniformity of Board decisions, or (ii) the matter to be referred is one of exceptional importance.

(2) A request for full Board consideration may be made by any party at any

date on which is both (i) after the panel to which the case is assigned has issued its decision on a motion for reconsideration or relief from decision and (ii) within 10 working days after the date on which that party receives that decision. Any party making a request for full Board consideration shall state concisely in the motion the precise grounds on which the request is based.

(3) The full Board on its own may initiate consideration of a matter (i) at any time while the case is before the Board, (ii) no later than the last date on which any party may file a motion for reconsideration or relief from decision or order, or (iii) if such a motion is filed by a party, within 10 days after a panel has resolved it.

(b) *Consideration.* Promptly after such a request is made, a ballot will be taken among the judges; if a majority of them favors the request, the request will be granted. The result of the vote will promptly be reported by the Board through an order. The concurring or dissenting view of any judge who wishes to express such a view may issue at the time of such order or at any time thereafter.

(c) *Decisions.* If full Board consideration is granted, a vote shall be taken promptly on the pending matter. After this vote is taken, the Board shall promptly, by order, issue its determination, which shall include the concurring or dissenting view of any judge who wishes to express such a view.

6101.31 Clerical mistakes [Rule 31].

Clerical mistakes in decisions, orders, or other parts of the record, and errors arising therein through oversight or inadvertence, may be corrected by the Board at any time on its own initiative or upon motion of a party on such terms, if any, as the Board may prescribe. During the pendency of an appeal to another tribunal, such mistakes may be corrected only with leave of the appellate tribunal.

6101.32 Reconsideration; amendment of decisions; new hearings [Rule 32]

(a) *Grounds.* Reconsideration may be granted, a decision or order may be altered or amended, or a new hearing may be granted, for any of the reasons